

**AFFIDAVIT OF JOEL HOLLEY**

I am Joel Holley, I am the City Manager of the City of Lanett, Alabama.

I have personal knowledge regarding the facts surrounding the allegations made by Terry Daniel and his claim of alleged retaliation against him by the City of Lanett.

It is my understanding in Mr. Daniel's charge of discrimination, he states, as follows, "I applied for the fire chief position that was available with ~~the~~ <sup>The</sup> ~~respondent~~ <sup>46th</sup> respondent.

During the interview, the person conducting the interview, City Manger Joel G. Holley, began taking retaliatory actions towards me in an attempt to punish me for complaining to the EEOC and filing a lawsuit against the City of Lanett. These acts of retaliation include Mr. Holley asking me what he should say to the city council as to why they should promote me in light of the fact that I am suing the City."

Mr. Daniel is an employee of the City of Lanett Fire Department and is a classified employee.

The position of fire chief with the City of Lanett is an unclassified service, which pursuant to the employee personal handbook list unclassified service as follows:

"Unclassified Service: Department heads or individuals in approved jobs, which have been designated by the city council as "unclassified". Established personnel polices and procedures apply to these employees the same as classified employees, except as follows:

- (a) An unclassified employee's tenure of services is at the pleasure of the city council;
- (b) If the individual is a classified employee at the time of his/her appointment to unclassified position, he/she will retain the right to reinstatement as a classified employee in an available position for which he/she is qualified upon termination from the unclassified service, unless he/she is separated for cause."



Thus, the position of fire chief is one that is determined by the mayor and council and the employee serves at the pleasure of the city council. A person being reviewed or considered for the fire chief's position does not have to be an employee of the City of Lanett, but could be whomever the city council and mayor determine they wish to hire for the position of fire chief.

The city council requested that I conduct interviews of all the applicants from the fire department. However, my input would have no true determination as to whether or not the city council retained any of the persons from the fire department that applied for the position of fire chief or whether they would hire someone from outside the department and even outside the City of Lanett.

During the interview of Mr. Daniel, I did not retaliate toward him and in my opinion the interview was very friendly.

I did ask Mr. Daniel if there was anything he wanted me to say to the council regarding his position with the fire department. However, this was done in light of the fact that Mr. Daniel is suing the City and I felt this question would be raised. However, I did not do it in retaliation and basically was just asking for what information did he want to be provided to the city council.

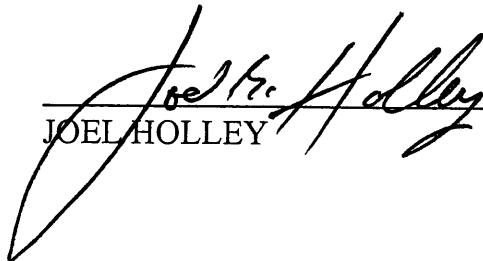
At the time of Mr. Daniel's alleged retaliation complaint to the EEOC, the mayor and council have not made a determination as to who will be the fire chief. Therefore, Mr. Daniel has not been retaliated against nor has he had any type of action improperly taken against him at the time of his retaliation claim of February 22, 2006.

Lastly, I have no say in the determination regarding the selection of the fire chief. In a classified position, the City Manager does have the determination. However, in an unclassified position as required by the personnel handbook, the mayor and council determine the unclassified positions such as fire chief and I have no involvement.

Thus, I have no ability to make any type of determination regarding the fire chief and have no ability to do anything towards Mr. Daniel in keeping him from the position of fire chief if the mayor and council wish for him to have the position.

I have no ill will toward Mr. Daniel and have not made any type of retaliatory action toward him based upon any of his prior claims against the City of Lanett.

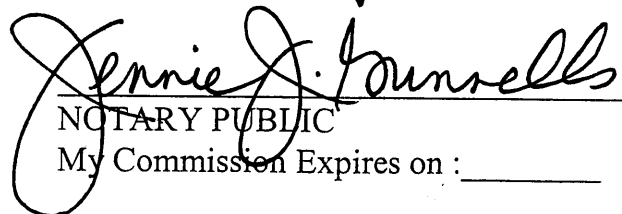
Further, affiant saith not.

  
JOEL HOLLEY

State of Alabama  
County of Chambers

SWORN TO and subscribed before me on this 25<sup>th</sup> day of April, 2006.

[SEAL]

  
NOTARY PUBLIC  
My Commission Expires on : \_\_\_\_\_

MY COMMISSION EXPIRES MAY 9, 2009